

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA,

v.

MAJOR WEST, JR.,

Defendant.

Crim. No. 4:17cr67

ORDER

Pending before the Court are the Government's Motion to Dismiss Information, a Report and Recommendation by Magistrate Judge Leonard and the Government's objection thereto, and the Government's Motion to Dismiss Indictment. For the following reasons, the Motion to Dismiss Information (ECF No. 20) is **DISMISSED** as moot, the Report and Recommendation (ECF No. 24) is **ADOPTED** and the Government's objection (ECF No. 25) is **OVERRULED**, and the Government's Motion to Dismiss Indictment (ECF No. 26) is **GRANTED**.

On December 14, 2018, the Magistrate Judge issued a Report and Recommendation ("R&R") that carefully reviewed the troubling procedural posture of this case. The Magistrate Judge's recommendation to dismiss the prosecution because of inexcusable failures by counsel was cogent and appropriate. This Court is particularly concerned with counsel's failure to set a trial date, despite the Court's clear directive to do so. Such dereliction henceforth will be addressed with sanctions.

The Government objected to the R&R. The Government requested that this Court accept the Magistrate Judge's recommendation to dismiss the Information but to also conduct a competency hearing and permit prosecution of Mr. West under the Indictment. ECF No. 25. The

Court has reviewed the record and evaluated the objection filed by the Government. The Court also has made *de novo* findings with respect to the portions objected to. The findings and recommendations set forth in the R&R are approved and adopted.

Ten days after filing its objection to the R&R, the Government filed a Motion to Dismiss the Indictment. This Motion is granted. The Motion to Dismiss Information (ECF No. 20) is **DISMISSED** as moot, the Report and Recommendation (ECF No. 24) is **ADOPTED** and the Government's objection (ECF No. 25) is **OVERRULED**. The Government's Motion to Dismiss Indictment (ECF No. 26) is **GRANTED**.

The Clerk is **REQUESTED** to send a copy of this Order to all parties.

IT IS SO ORDERED.



Arenda L. Wright Allen
United States District Judge

January 14, 2019
Norfolk, Virginia